

SAPC- 25355
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Amendment No. 1
Letter Contract No. AL-30-56
MAR 20 1958

This Supplemental Agreement of Settlement, entered into this 12th day of March 1958 between the United States of America (hereinafter called "the Government") represented by the Contracting Officer executing this contract, and The Perkin-Elmer Corporation, Norwalk, Connecticut, a corporation organized and existing under the Laws of the State of New York (hereinafter called "the Contractor").

WITNESSETH THAT:

WHEREAS, the Contractor and the Government have entered into Letter Contract No. AL-30-56 under date of 27 June 1956, which, together with any and all amendments, changes, modifications, and supplements thereto, is hereinafter referred to as "the Contract"; and

WHEREAS, the "Termination for Convenience of the Government" clause of the Contract provides that the performance of work under the Contract may at the convenience of the Government be terminated by the Government in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government, and that the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid to the Contractor by reason of such termination; and

WHEREAS, by notice of termination dated 31 August 1956 the Government advised the Contractor of the complete termination of the Contract for the convenience of the Government; and

WHEREAS, as used herein the following terms shall have the meanings hereinafter set forth;

The term "termination inventory" shall mean any items of physical property purchased, supplied, manufactured, furnished or otherwise acquired for performance of the Contract which are properly allocable to the terminated portion of the Contract, but shall not include any facilities, machinery, material, special tooling, or equipment which are subject to a separate contract or a special contract provision governing the use or disposition thereof. It includes "Contract termination inventory" which consists of all items of termination inventory properly allocable directly to the terminated portion of the Contract, and "sub-contract termination

DOCUMENT NO. 13

NO CHANGE IN CLASS.

IT IS DECLASSIFIED

CLASS. CHANGED TO: TS S C

NEXT REVIEW DATE: 2012

AUTH: MR 70-2

DATE: 180182

REVIEWER: 010956

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inventory" which consists of all items of termination inventory properly allocable to the terminated portion of any subcontract under the Contract.

The term "subcontract" means any contract, agreement, or purchase order, and any preliminary contractual instrument, calling for the performance of any work, or for the making or furnishing of any material, required for the performance of the Contract. The term also includes any such contract, agreement, purchase order, or other instrument, placed under any one or more subcontracts as herein defined.

The term "scrap" shall mean any items of termination inventory which have no reasonable prospect of sale except for their basic material content.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE 1. The Contractor certifies that all Contract termination inventory (including scrap) has been retained or otherwise acquired by it, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, have been taken into account in arriving at this Agreement.

ARTICLE 2 a. The Contractor certifies that, prior to the execution of this Agreement, each of the Contractor's immediate subcontractors whose claim is included in the claim settled by this Agreement has furnished to the Contractor a certificate stating (i) that all of its subcontract termination inventory (including scrap) has been retained or otherwise acquired by it, sold to third parties, returned to suppliers, stored for the Government, delivered to the Government, or otherwise properly accounted for, and all proceeds or retention prices thereof, if any, were taken into account in arriving at the settlement of the subcontract or subcontracts, and (ii) that the subcontractor has received from each of the immediate subcontractors whose claim was included in its claim a substantially similar certificate.

b. The Contractor hereby transfers and conveys to the Government all the right, title and interest, if any, which the Contractor has received, or is entitled to receive, in and to subcontract termination inventory, if any, not otherwise properly accounted for, and hereby assigns to the Government any and all of its rights relating thereto.

ARTICLE 3. The Contractor certifies that, with respect to all items of termination inventory the costs of which were taken into account in arriving at the amount of this settlement, or in the

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settlement of any subcontract claim included in this settlement; (i) all such items are properly allocable to the terminated portion of the Contract; (ii) such items are not in excess of the reasonable quantitative requirements of the terminated portion of the Contract; (iii) such items do not include any items reasonably usable, without loss to the Contractor, on its other work; and (iv) the Contractor has informed the Contracting Officer of any substantial change in the status of such items between the dates of its termination inventory schedules and the date of this agreement.

ARTICLE 4. It is hereby agreed that all funds paid or to be paid hereunder to the Contractor for the benefit of subcontractors or suppliers shall be held in trust by the Contractor for the benefit of such subcontractors or suppliers until such time as payment of such funds to the respective subcontractors or suppliers is accomplished or until refund by the Contractor to the Government as hereinafter provided. In all cases where the Contractor has not previously made such payments, the Contractor shall, within ten (10) days after receipt of the payment provided for hereunder, pay to each of its immediate subcontractors and suppliers (or to their respective assignees) the respective amounts to which they are entitled, after deducting, if the Contractor so elects, any amounts then due and payable to the Contractor by such subcontractors and suppliers. If the Contractor fails to make any such payment within ten (10) days, the Contractor will, upon request, return to the Government the amount so payable to such immediate subcontractors and suppliers, less any amount then due and payable to the Contractor by them.

ARTICLE 5.a. The Contractor has received the sum of \$6,262.84 on account of work and services performed, or articles delivered, under the completed portion of the Contract. The Government as part of this negotiated settlement hereby confirms and acknowledges the right of the Contractor, subject to the provisions of Article 6 hereof, to retain such sum heretofore paid and agrees that such sum constitutes a portion of the total amount to which the Contractor is entitled in settlement of the Contract.

b. In addition, upon execution of this Agreement the Government agrees to pay to the Contractor or its assignee, upon presentation of properly certified invoices or vouchers, the sum of \$937.03, arrived at by deducting from the sum of \$7,199.87 the amount of \$6,262.84 representing all unliquidated partial or progress payments previously made on account to the Contractor or its assignee and all unliquidated advance payments (with interest, if any, thereon). Said sum, together with all other sums heretofore paid, constitutes payment in full and complete settlement of the amount due the Contractor by reason of the complete termination of work under the Contract and of all other claims and liabilities of the Contractor and the Government under the Contract, except as hereinafter provided in Article 6.

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ARTICLE 6. Notwithstanding any other provision of this Agreement, the following rights and liabilities of the parties under the Contract are hereby reserved:

(1) All rights and liabilities of the parties arising under the Contract articles, if any, or otherwise which relate to reproduction rights, patent infringements, inventions, applications for patent and patents, including rights to assignments, invention reports and licenses, covenants of indemnity against patent risks and bonds for patent indemnity obligations, together with all rights and liabilities under any such bond.

(2) All rights of the Government to take the benefit of any adjustments of royalties under the Royalty Adjustment Act of 1942 (35 U.S.C. 89-96) and to take the benefit of agreements reducing or otherwise affecting royalties paid or payable in connection with the performance of the Contract.

(3) All rights and liabilities, if any, of the parties under those clauses inserted in the Contract because of the requirements of Acts of Congress and Executive Orders, including without limitation, any applicable clauses relating to the following topics: labor law, contingent fees, domestic articles, employment of aliens, "officials not to benefit."

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date indicated above.

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Contracting Officer

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THE PERKIN-ELMER CORPORATION

By

Title E & O Division Manager

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